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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/998,938      | 11/30/2001  | Avraam I. Isayev     | UA411               | 5914             |

7590

10/21/2004

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| EXAMINER |
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HENDRICKSON, STUART L

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| ART UNIT | PAPER NUMBER |
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1754

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/09/038

Applicant(s)

I Sayev

Examiner

Dendickson

Group Art Unit

1751

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 9/21/04
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1,3,15,16 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1,3,15,16 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1754

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. The request filed on 9/27/04 for Continued examination (RCE) based on parent Application No. 09/998938 is acceptable and an RCE been established. An action follows.

Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Korai article.

The reference teaches on pg. 2 and 3 mixing pitches followed by heating. No difference is seen, as the temperature is the same as claimed. Even though the reference does not explicitly teach inert atmosphere, it is implied by the reference. Pg. 1510 teaches 400 degrees. In so far as the rejection is under '103, using the claimed ratio of pitches and the temperatures is an obvious expedient of optimization; In re Boesch 205 USPQ 215. Mesophase is deemed formed, as the process conditions are the same as claimed.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Korai taken with Tamaki.

Korai does not require an inert atmosphere, however Tamaki does in a similar process. Using inert atmosphere is an obvious expedient to prevent oxidation loss.

Claims 1 and 15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Marsh et al. in view of Romine et al. 5501788.

Marsh teaches in table 3 and section 2.2.9 mixing a mesophase pitch and A240 (shown by Romine in ex. 1 to be non-mesophase) and heating to 300-400 degrees for 2 hrs. The overlapping temperature range renders the claims unpatentable; the recitation of 400 is deemed to anticipate.

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Claims 3 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh/Romine above, taken with Tamaki.

Marsh/Romine, supra, does not require an inert atmosphere, however Tamaki does in a similar process. Using inert atmosphere is an obvious expedient to prevent oxidation loss.

Applicant's arguments with respect to claims 1, 3, 15, 16 have been considered but are moot in view of the new ground(s) of rejection.

It is noted that mesophase formation occurs upon heating, with longer heating meaning more conversion- this is the thrust of the Marsh article. Claim 15 only requires minimal amounts of conversion.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.

A handwritten signature in black ink, appearing to read 'Stuart Hendrickson', is positioned above the printed name.

Stuart Hendrickson  
examiner Art Unit 1754